

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

JIMMIE MCCOY, III,

Plaintiff,

vs.

Case No. CIV-23-057-JFH- JAR

BARTON TAYLOR, et. al.,

Defendants.

**DEFENDANTS' APPLICATION FOR ORDER DIRECTING PREPARATION OF
MARTINEZ REPORT AND HOLDING IN ABEYANCE/SET DEADLINE FOR
ANSWER AND/OR DISPOSITIVE MOTIONS**

COME NOW Defendants Taylor and Martinez by and through their attorney of record Darrell L. Moore, OBA 6332 of J. Ralph Moore, P.C., hereby making application to the Court for an Order holding in abeyance Defendants' time to Answer, setting an alternate deadline for filing an answer and/or dispositive motions, and, requiring the preparation and submission of a *Special Report*. In support of this application, Defendants state as follows:

1. Plaintiff's complaint was filed with this Court pursuant to 42 U.S.C. § 1983 on February 15, 2023. Plaintiff Jimmie McCoy, III, ODOC #796101, is a person in the custody of the Oklahoma Department of Corrections and is presently confined by the Department of Corrections at Davis Correctional Facility, a private penal institution in the State of Oklahoma, owned and operated by CoreCivic, Inc. Defendant CoreCivic, Inc., is contracted with the Oklahoma Department of Corrections to house Oklahoma inmates. Plaintiff alleges in his complaint that Defendants violated his civil rights. Specifically, Plaintiff asserts that the Defendants have violated his rights under the Eighth Amendment during a use of force incident

at the facility. Plaintiff additionally complains about his restraints, his access to food and his cellmate being a gang member.

2. The United States Court of Appeals for the Tenth Circuit, in Martinez v. Aaron, 570 F.2d 317 (10th Cir. 1978), held that in an inmate litigation case it was an appropriate step for the District Court to Order prison officials to prepare an administrative record reviewing a plaintiff's allegations so as to enable the Court to decide preliminary issues. Several years later, in Hall v. Bellmon, 935 F.2d 1106, 1109 (10th Cir. 1991), the Tenth Circuit Court of Appeals stated: "When the pro se plaintiff is a prisoner, a court-authorized investigation and report by prison officials (referred to as a *Martinez* report) is not only proper, but may be necessary to develop a record sufficient to ascertain whether there are any factual or legal bases for the prisoner's claims."


3. CoreCivic, Inc., owns and operates the Davis Correctional Facility, Holdenville, Hughes County, Oklahoma. Defendants Taylor and Martinez are employed by CoreCivic at Davis Correctional Facility. The Oklahoma Department of Corrections and CoreCivic have contracted to house prisoners at the medium security/maximum security prison facility named "Davis Correctional Facility." Defendant Taylor is a Case Manager and Defendant Martinez is a Unit Manager.

4. Defendants request the Court issue an Order directing officials responsible for the operation of Davis Correctional Facility to prepare an administrative report for submission to the Court, consistent with the Martinez and Hall holdings. Defendants request authority to obtain and review all pertinent records, including medical and psychiatric records. Defendants further request the Court issue an Order holding in abeyance further discovery and their time to file an

Answer and/or file dispositive motions until such time as a *Special Report* has been prepared and filed with the Court.

WHEREFORE, premises considered, Defendants hereby request the Court enter an Order requiring and authorizing Davis Correctional Facility prison officials to prepare and file a *Special Report*; and, an Order setting deadlines for the filing of an answer and/or dispositive motion; and, for any and all further relief to which the Defendants may be entitled.

Respectfully submitted,
Defendants Taylor and Martinez

BY: 
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Certificate of Service

☐ I hereby certify that on May 15, 2023, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following ECF registrants: (insert names)

☒ I hereby certify that on May 15, 2023, I served the attached document by regular US Mail on the following, who are not registered participants of the ECF System:

Jimmie McCoy, III, DOC#796101
Davis Correctional Facility
6888 E 133rd Rd
Holdenville, OK 74848



DARRELL L. MOORE